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ATTORNEY DOCKET NO.: EMP04-49

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Theodore M. Osborne, II, Michael V. Glik, Caren H. Baker, George
Friedman and Walter G. Vahey
Serial No.: 09/548,203
For: METHOD AND SYSTEM FOR TESTING TECHNOLOGY BASED
SOFTWARE COMPONENTS
Filing Date: April 13, 2000
Examiner: Mary J. Steelman
Art Unit: 2122
Conf. No.: 6649

Certificate of Mailing Under 37 C.F.R. §1.8

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By: Mary A. Maietta
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Signature: Mary A. Maietta

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P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Sir:

Enclosed is/are:

- [x] Transmittal Letter (this form, 2 pages, in duplicate), Total Pages: 4;
- [x] Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection over a Pending Second Application, Total Pages: 1;
- [x] Return Receipt Pre-paid Postcard (in duplicate), Total postcards: 2;
- [x] Authorization to charge Deposit Account No. 50-0901, if necessary.

U.S. Application No.: 09/548,203

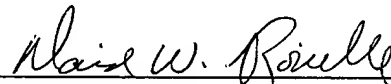
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Applicant hereby petitions for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-0901.

If the enclosed papers or fees are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

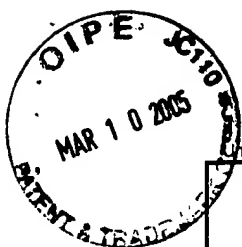
Respectfully submitted,



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Attorney Docket No.: EMP04-49

Dated: March 7, 2005



**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE
PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)
EMP04-49

In re Application of: Empirix Inc.

Application No. 09/548,203

Filed: April 13, 2000

For: METHOD AND SYSTEM FOR TESTING TECHNOLOGY BASED SOFTWARE COMPONENTS

The owner*, Empirix Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 09/482,178, filed on January 12, 2000, of any patent on the second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

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2. ☒ The undersigned is an attorney of record.

March 7, 2005

Signature

Date

David W. Rouille, Esq.
Typed or printed name

508-366-9600
Telephone Number

- ☐ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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